

DISABILITY OMBUDSMAN PROGRAM

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill creates a disability ombudsman program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Division of Services for People with Disabilities (division) to appoint a disability ombudsman;
- ▶ describes the powers and duties of the disability ombudsman;
- ▶ requires the disability ombudsman to keep certain records confidential;
- ▶ provides that the disability ombudsman is only required to testify in court regarding confidential records under certain circumstances; and
- ▶ requires the division to make administrative rules regarding certain duties of the disability ombudsman.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to Department of Human Services -- Division of Services for People with Disabilities -- Disability Ombudsman Program, as an ongoing appropriation:
 - from General Fund, \$143,000.

Other Special Clauses:

None



Utah Code Sections Affected:

ENACTS:

62A-5-501, Utah Code Annotated 1953**62A-5-502**, Utah Code Annotated 1953**62A-5-503**, Utah Code Annotated 1953**62A-5-504**, Utah Code Annotated 1953**62A-5-505**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **62A-5-501** is enacted to read:**Part 5. Disability Ombudsman Program****62A-5-501. Definitions.**As used in this part:(1) "Complainant" means a person who initiates a complaint.(2) "Complaint" means a complaint initiated with the ombudsman identifying a person who has violated the rights and privileges of an individual with a disability.(3) "Ombudsman" means the ombudsman appointed in Section **62A-5-502**.(4) "Rights and privileges of an individual with a disability" means the rights and privileges of an individual with a disability described in Subsections **62A-5b-103**(1) through (3).Section 2. Section **62A-5-502** is enacted to read:**62A-5-502. Disability ombudsman -- Purpose -- Appointment -- Qualifications -- Staff.**(1) There is created within the division the position of disability ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of an individual with a disability are upheld.(2) The director shall appoint an ombudsman who has:(a) recognized executive and administrative capacity; and(b) experience in laws and policies regarding individuals with a disability.(3) The ombudsman may hire staff as necessary to carry out the duties of the ombudsman under this part.

Section 3. Section **62A-5-503** is enacted to read:

62A-5-503. Powers and duties of ombudsman.

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

(3) develop a website to provide the information described in Subsection (2) in a form that is easily accessible;

(4) receive, process, and investigate complaints in accordance with this part;

(5) review periodically the procedures of state entities that serve individuals with a disability;

(6) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under this section, including the long-term care ombudsman program, created in Section [62A-3-203](#), and the child protection ombudsman, appointed under Section [62A-4a-208](#), when there is overlap between the responsibilities of the ombudsman and the long-term care ombudsman program or the child protection ombudsman;

(7) as appropriate, make recommendations to the division regarding rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the ombudsman's duties under this part;

(8) submit annually, by July 1, to the Health and Human Services Interim Committee, a report describing:

(a) the work of the ombudsman; and

(b) any recommendations for statutory changes to improve the effectiveness of the ombudsman in performing the duties under this section; and

(9) perform other duties required by law.

Section 4. Section **62A-5-504** is enacted to read:

62A-5-504. Investigation of complaints -- Procedures -- Rulemaking.

(1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a complaint, investigate the complaint.

(2) An ombudsman's investigation of a complaint may include:

(a) a referral to a governmental entity or other services;

(b) the collection of facts, information, or documentation;

(c) holding an investigatory hearing; or

(d) an inspection of the premises of the person named in the complaint.

(3) (a) The ombudsman may decline to investigate a complaint.

(b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify the complainant and the division of the declination.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the ombudsman's process for:

(a) receiving and processing complaints; and

(b) conducting an investigation in accordance with this section.

Section 5. Section **62A-5-505** is enacted to read:

62A-5-505. Confidentiality of materials relating to complaints or investigations -- Rulemaking.

(1) The division shall establish procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

(2) The identity of a complainant or a party named in the complaint may not be disclosed by the ombudsman unless:

(a) the complainant or a legal representative of the complainant consents to the disclosure;

(b) disclosure is ordered by a court of competent jurisdiction; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the complainant, to an agency or entity in the community that:

(i) has statutory responsibility for the complainant, over the action alleged in the complaint, or another party named in the complaint;

(ii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iii) is able to provide expertise that would benefit the complainant.

(3) Neither the ombudsman nor the ombudsman's designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Services for Disabilities

From General Fund

\$143,000

Schedule of Programs:

Disability Ombudsman Program

\$143,000

The Legislature intends that the appropriations under this item be used for the disability ombudsman program described in Title 62A, Chapter 5, Part 5, Disability Ombudsman Program.